REMARKS

Applicant hereby responds to the Office Action dated 8/6/2009. Therein, the examiner indicated that the prior Office Action was an action on the merits and that applicant was not able to add claims 23-41 as dependent from claims 21 and 22.

Applicant respectfully traverses. As understood, in an application when only a non-final written requirement to restrict is made, no action on the merits is given. A 1-month (not less than 30 days) shortened statutory period was set for reply when per section 810 MPEP (when a written restriction requirement is made without an action on the merits). The Office action making the restriction requirement final ordinarily includes an action on the merits of the claims of the elected invention. See 37 CFR 1.143. This was not done however.

Accordingly, the applicant should have been permitted to amend claims via a preliminary amendment, which applicant did, prior to examination. Applicant's election to pursue invention directed to claims 21 and 22 and claims 23-41 which included the limitations of the independent claim 21 is submitted to have been proper. The subject matter in claims 23 and 33 includes that of independent claim 21, namely, a server computer operably connected to an Internet, the server computer having an operating system and a memory operably associated therewith, carbon credit software operably disposed in the memory and accessible through the operating system, wherein a carbon credit product or carbon credit service can be purchased through the carbon credit software and which carries a predetermined number of carbon credits and the purchase causes one of a good and service certificate bearing a carbon credit consumer symbol ("CCCP") to be sent to the purchaser. This language further modifies the method claims.

There is no reason that the prior amendment should not have been allowed since no action on the merits had been made prior to the amendment. In view of the rejection of claims 21 and 22 under 35 U.S.C 101, and further in view of the uncertainty of the type of subject matter which is deemed patentable per the pending Supreme Court Bilski case, applicant has amended claim 23 and 33 to include the limitations of claim 21. Applicant requests that the claims 22-41 be reviewed as method claims which are patentable until indicated otherwise by the Supreme Court (which is currently hearing arguments on such subject matter). Further, it is submitted that the claims 22-41 are of the type wherein subject matter is transformed to a different state or thing. The employing of the server computer having an operating system and a memory operably associated therewith, carbon credit software operably disposed in the memory and accessible through the operating system, wherein a carbon credit product or carbon credit service can be purchased through the carbon credit software and which carries a predetermined number of carbon credits and the purchase causes one of a good and service certificate bearing a carbon credit consumer symbol ("CCCP") to be sent to the purchaser is submitted to transform the underlying subject matter. Withdrawal of the rejection is kindly requested.

Claims 21 and 22 were rejected under 35 U.S.C. 102(a) over Riley. Riley merely mentions the term carbon credit in conjunction with the concept of offsetting for carbon emissions.

This broad concept is not a teaching, disclosure or suggestion of the claimed invention. The claimed invention provides a transformation of the underlying subject matter wherein the server can provide a carbon credit product or carbon credit service

can be purchased through the carbon credit software and which carries a predetermined number of carbon credits and the purchase causes one of a good and service certificate bearing a carbon credit consumer symbol ("CCCP"). As indicated in the application, CCCP is derived using a formula: assuming a good/service emits X lbs. of CO_2 per unit used; Y number of carbon credits can be calculated based on known output of a particular forestation or grassy/herbaceous land hector at a given dollar value Z $/lb. Consequently, a formula can be derived: 1 (X good / service requires lbs cc ' s / unit) (Z land type size yields number lbs cc ' s / $) = Y carbon credits @ $ / unit cost . This formula is used in the computer to carryout out the invention in a functionally novel manner whereby users can interact through a portal and an exchange is enabled. Riley provides no such disclosure and accordingly does not anticipate or render obvious the instant invention. Rather, Riley is simply a general disclosure of a concept and does not provide the disclosure of the instant invention. Riley is not prior art to the instant invention and even if it is, it does not anticipate or render obvious the claimed invention. Withdrawal of the rejection of the claims is respectfully requested.

This is intended to be a complete response to the Restriction Requirement of 8/6/2009. An extension of time and fee are submitted herewith.

Respectfully submitted,

/ R. William Graham/

R. William Graham,

Reg. No. 33891

Certificate of Transmission

I hereby certify that this correspondence is being electronically transmitted to the United

States Patent Office for Group Art Unit: 3622 on the date shown below.

/ R. William Graham/ Monday, December 07, 2009

R. William Graham,

Reg. No. 33891